

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	CC Docket 01-338
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	CC Docket 96-98
Deployment of Wireline Services Offering Advanced Telecommunications Capability	CC Docket 98-147

Reply Comments of BrahmaCom

Pursuant to the Commission’s Notice of Proposed Rule Making, BrahmaCom Inc. hereby submits these reply comments in the above-captioned proceedings.

BrahmaCom is a facilities-based CLEC based in Needham, Massachusetts. We provide both voice (basic dial tone) and data (DSL) services to a customer base that is primarily residential. We do not make use of ILEC unbundled switching, do not provide switched service to ISPs, and do not resell ILEC tariffed services. Our customer base is small (under 500 lines) but growing.

The market for intra-LATA DS-1 services is not competitive

For some of our customers, we are a “UNE Loop” carrier, making use of collocation in Verizon wire centers in order to lease unbundled loops, which are attached to our line terminating equipment (DSLAMs and DLCs). For other customers in certain large multi-dwelling units (MDUs), we locate our equipment on the premises, which we reach by using DS-1 Enhanced Extended Loops (EELs) from the ILEC. These EELs combine a DS-1 local loop with DS-1 or DS-3 interoffice transport. These are qualified for EEL treatment under the Commission’s current rules because we are providing both voice

and data services, including a Voice over DSL product that allows up to three full quality dial tone lines to be served by a single loop. We are the only LEC offering this product to residential subscribers in Massachusetts.

Some ILEC commentators have claimed that a competitive market already exists for local transport. We have not found this to be generally true. The MDUs we serve, for example, are located on the Boston waterfront. They are separated from the bulk of the city by the “Big Dig” highway construction project. Construction of wireline facilities in that area would be impractical, even if were economically feasible, which it is not. The ILEC does not provide DSL to these locations, apparently because the Big Dig impairs the voice-grade loops. We, and our MDU customers, are thus dependent upon ILEC DS-1 loops.

We note that BellSouth has requested that the Commission ban the practice of converting Special Access to EELs. This would cripple our business, because in our experience Verizon finds reasons to reject most orders for DS-1 EELs unless the circuit has already been installed as Special Access!

While the central offices in areas we serve are large enough to have more than one LEC present, we have not found a reasonable alternative to the ILEC’s Dedicated Transport for interoffice bandwidth. We requested a price quotation from a major carrier, which had buildings housing two separate CLEC subsidiaries on the same street as our Needham hub facility, within one city block of us. We were nonetheless quoted a price that appeared to be Verizon’s retail Special Access rate, which is several times the UNE rate. This indicates to us that the market is not yet sufficiently competitive.

The High Frequency UNE is vital to the success of a CLEC

We strongly dispute the recent DC Circuit decision that overturned the Commission’s logic in requiring the High Frequency unbundled network element, and call upon the commission to preserve CLEC access to this vital element. While some ILEC commentators have cited this as superfluous, they are blatantly ignoring the market reality that impacts the residential and small business subscribers who can only be reached via the ILEC loop.

We offer a mix of services. We can offer baseband voice only, DSL only, or a combination of the two. Because our DSL technology provides a longer loop-qualification radius than ILEC ADSL, we are the only DSL provider to a “donut” of subscribers who are otherwise too far the ILEC central office. Given the UNE rate for a full loop, compared to ILEC prices for residential dialtone services, it is very hard to compete for plain analog dial tone services. ILEC residential prices are often predatory, held down by historical monopoly regulation and “price caps” that preserve these rates. We are able to compete successfully for a small number of “full service” residential voice-only subscribers, but even there, our margins are thin. In the business voice-only baseband market, we are competing with both ILEC retail services and UNE Platform competitors, who collectively create a price umbrella that limits our share of this market. In any case, the business-line market is limited in the mostly-residential central offices that we target.

We find that the best chance of becoming profitable, as a facilities-based provider, is to offer a mix of DSL and voice services. If the subscriber chooses to take our basic baseband voice service bundled with DSL, then we can justify paying for a full loop. But if the customer is only interested in our DSL, then we cannot afford to pay for a full loop. The ILEC’s own DSL service is priced based on attributing the loop cost to its own baseband service, so it would necessarily undercut our own, unless we took a steep loss. Without access to the High Frequency UNE, our ability to compete would be profoundly impaired.

A CLEC in our position cannot succeed by only serving those customers who need both baseband and DSL services. In the central offices that we serve, and especially in the smaller ones that we hope to serve, the volume of such customers would not be sufficient to cover the common costs of collocation, interoffice transport, and terminating equipment. The High Frequency UNE is necessary to allow us to build up the volume of DSL subscribers to a point that makes collocation worthwhile, which then makes all of our other services practical in these COs. This especially impacts our future ability to focus on smaller COs and rural markets.

Subloop access is increasingly important

Although the Commission formally required unbundled subloops several years ago, actual implementation of this element has been held up by a variety of ILEC stalling tactics. In the meantime, ILECs are deploying increasing numbers of digital loop carriers, making subscribers unavailable to CO-based DSL providers. We recognize that DLC is an important technology and that long copper loops are not a forward-looking solution. However, we do not accept that it is necessary to grant the ILEC a monopoly in the provision of advanced services, and for that matter information services, to subscribers who happen to be located in a DLC-served area. We call upon the Commission to preserve the subloop UNEs, both feeder and distribution, and to expedite processes for making this actually available to CLECs who wish to provide advanced services. While several ILECs and their captive equipment vendors have stated that this element is a hindrance to their rollout of advanced services, we categorically reject this claim. ILEC denial of broadband services, including their own, to subscribers in these areas is simply a form of blackmail, which should not be rewarded or even tolerated.

Conclusion

The Commission should preserve CLEC access to the Dedicated Interoffice Transport UNEs, and to the Unbundled Local Loop UNEs, including the High Frequency portion of the loop. These are necessary to permit facilities-based competition to take hold in residential and small business markets. The Commission should also preserve the availability of DS-1 loop UNEs and DS-1 EELs, as the ILECs retain monopoly pricing power, even in many core urban markets.